



TENTH ANNUAL REPORT

Victims of Crime Act
R.S.P.E.I. 1988, Cap. V-3.1

April 1, 1998 - March 31, 1999

Prince Edward Island Department of Community Services and Attorney General
P. O. Box 2000, Charlottetown, PE C1A 7N8

September 27, 1999

TO: The Honourable Gilbert R. Clements
Lieutenant Governor
Province of Prince Edward Island

MAY IT PLEASE YOUR HONOUR:

I have the honour to submit the Tenth Annual Report of
the administration of the *Victims of Crime Act*, R.S.P.E.I. 1988,
Cap. V-3.1 pursuant to section 36 of the Act.

I have the honour to be Sir your obedient servant.

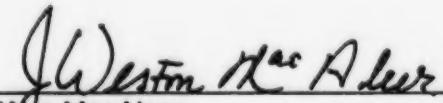

Wes MacAlear
Wes MacAlear
Minister of Community Services and
Attorney General

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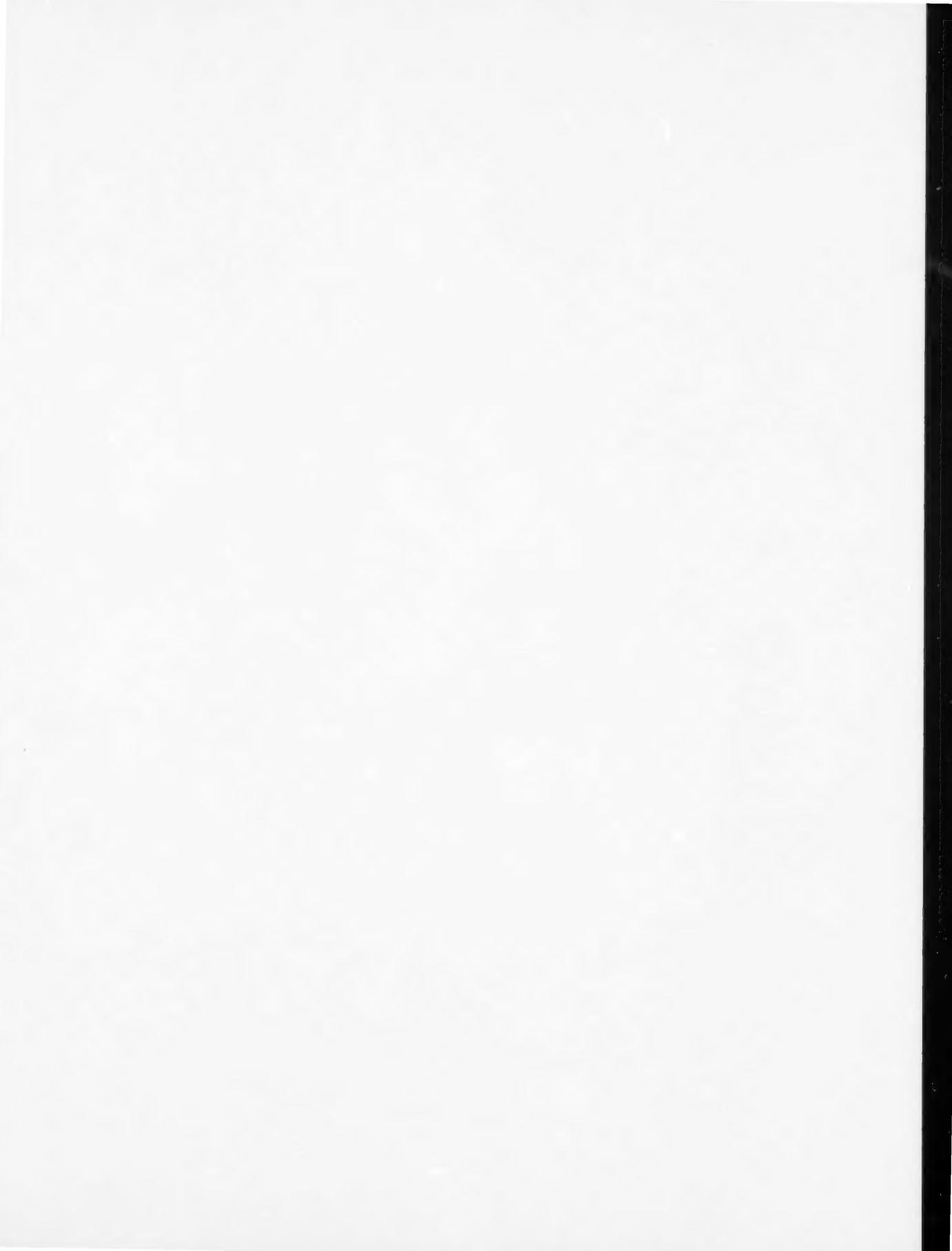
PART I INTRODUCTION

The *Victims of Crime Act*, R.S.P.E.I. 1988, Cap.V-3.1 was proclaimed in force September 30, 1989. Regulations and Orders under the *Act* also came into force on that date.

The Statement of Principles contained in Part I of the *Victims of Crime Act* sets out the following principles for the guidance of persons in providing justice for victims of crime:

- (a) Victims should be treated with courtesy and compassion and with respect for their dignity, privacy, and convenience;
- (b) Victims should receive prompt and fair financial redress for the harm they have suffered;
- (c) Victims should be informed of and should have access to services including social, medical, legal, and mental health assistance;
- (d) Victims should be informed about the progress of the investigation and prosecution of the offense, court procedures, the role of the victim in court proceedings, and the ultimate disposition of the proceedings;
- (e) Victims are entitled, where their personal interests are affected, to have their views and concerns brought to the attention of the Court where consistent with criminal law and procedure;
- (f) Victims and their families should be protected from intimidation, retaliation, and harassment;
- (g) Victims should have their stolen property returned to them as soon as possible after recovery by law enforcement authorities.

The other parts of the *Act* include Victim Services, Victim Assistance Fund, Criminal Injuries Compensation, and General.



PART II REPORT OF THE VICTIM SERVICES ADVISORY COMMITTEE

The Victim Services Advisory Committee is established under Part II of the *Victims of Crime Act*. Members are appointed by the Minister responsible and serve two-year terms. Members may be reappointed for a second term. Members as of March 31, 1999, their alternative representatives, and the organizations they represent were as follows:

Jo-Anne Hargrove/Bob Albert	Probation Services
Chief George Arsenault/Chief Paul Smith	Association of Chiefs of Police
Shirley Arsenault/Scott Miller	Survivors of Drinking and Driving
Anne Nicholson/Tammy MacCallum	Rape & Sexual Assault Crisis Centre
Rona Brown	Family Violence Consultant
Trish Cheverie/Thane MacEachern	Law Society of PEI
Joanne Ings/Ellen Ridgeway	Transition House Association
Sgt. Keir MacQuarrie/Sgt. Gerry MacDonald	RCMP "L" Division
Glenda Dell/Ann Sherman	Community Legal Information Assoc.
Cpl. Albert Kern/Cst. Gary Clow	Charlottetown Police Department
Luna Henderson/Aggie Missaghian	PEI Association of Newcomers
Anne Lie-Neilsen	PEI Council of the Disabled
Barrie Grandy	Crown Attorneys
Erin Campbell	Youth Action Committee
Wayne Lilly/Judy Turpin	Clerks of the Court

The Victim Services Provincial Manager and Secretary assist the Committee in its operations. The Provincial Advisor, Corrections and Criminal Justice; the Director, Community and Correctional Services; and the Adjudicator from the Legal Services Division attend meetings and provide information to the committee.

During the 1998/99 fiscal year, the Victim Services Advisory Committee met on April 3, June 19, September 11, December 4, and March 12. Rona Brown and Sgt. Keir MacQuarrie served as co-chairs during this fiscal year.

The *Victims of Family Violence Act* continued to be a discussion item at each Victim Services Advisory Committee meeting. A Monitoring Study of the use and effectiveness of the *Act* was conducted by Brenda Bradford of Bradford and Associates. The Final Report of the Monitoring Study was circulated at the June 19 meeting and the recommendations from this study and follow-up actions were discussed at the September 11 meeting. A recommendation regarding the need for funding for legal counsel to assist victims with orders under the *Act* was referred to the Victim Services Advisory Committee who then wrote a letter to the Minister of Community Services and Attorney General, dated December 4, 1998.

Copies of the Supreme Court decision regarding the constitutionality and *Charter* compliance of the *Victims of Family Violence Act* were distributed at the April 3 meeting. This decision was favourable regarding constitutionality, but some amendments to the *Act* and regulations were required for *Charter* compliance. It was reported at the March 12 meeting that the amendments to the *Act* were passed at the fall sitting of the Legislature and amendments to the regulations were also being made. These amendments would bring the *Act* into compliance with the Supreme Court decision regarding the *Charter* issues.

Training and information sessions on the *Victims of Family Violence Act* continued during the 1998/99 fiscal year. Two training sessions for new police officers were held in June. An information session for lawyers was held in January as part of the mid-winter meeting of the Law Society of Prince Edward Island. Approximately twenty lawyers were in attendance.

A Summary of the Implementation Process for the *Victims of Family Violence Act* (1994-1998) was distributed at the April 3 meeting. This summary was prepared in order to assist other provinces/territories with developing and implementing family violence legislation.

Further information on the response to family violence cases was obtained through a police file review conducted by Rona Brown. The Victim Services Advisory Committee discussed the need for a full evaluation of the *Victims of Family Violence Act*. At the December 12 meeting, the committee was advised that Brenda Bradford had received approval for funding from Justice Canada to conduct Phase I of the evaluation.

The Victim Services Advisory Committee continued to consider the need for an extension of the publication ban on identity in the *Criminal Code*. This need had been brought to the Committee's attention by a number of victims and witnesses in the preceding years. A sub-committee assisted with a Proposal for an Extension of the Ban on Publication of the Identity of Victims and Witnesses. This proposal was distributed at the April 3 meeting. The proposal was considered at the national level, approved by Federal/Provincial/Territorial Ministers Responsible for Justice, and included in the recommendations of the Parliamentary Standing Committee on Justice and Human Rights for amendments to the *Criminal Code of Canada*.

The difficulties some women leaving abusive relationships have been encountering when applying for social assistance were discussed and acted upon by the Victim Services Advisory Committee. Some clients of Transition House Association and of Victim Services reported an unsupportive response and lack of money for special needs. The Victim Services Advisory Committee wrote a letter dated September 14, 1998, to Deputy Minister David B. Riley who in turn wrote to Carol Ann Duffy, the Deputy Minister of Health and Social Services.

The representative of the PEI Rape and Sexual Assault Crisis Centre brought to the Committee's attention the need for an Eastern School Board policy on violence in the schools. The Victim Services Advisory Committee decided to write to the Eastern School Board to express support for a consistent victim-sensitive policy regarding the handling of violent incidents in the schools. This letter was dated April 6, 1998. At its meeting on March 12, 1999 the Victim Services Advisory Committee was advised that the suggestions

of the PEI Rape and Sexual Assault Crisis Centre and the PEI Advisory Council on the Status of Women, supported by the Victim Services Advisory Committee, were included in the new Eastern School Board policy as well as a definition of verbal abuse.

On June 10, 1998, the co-chairs of the Victim Services Advisory Committee made a presentation on the functions, history, and activities of the Committee to the Federal/Provincial/Territorial Working Group on Victims of Crime and the Directors/Managers of Victim Services at its national meeting being held in Charlottetown.

At its June 19 meeting, the Victim Services Advisory Committee discussed a request from the PEI Advisory Council on the Status of Women for observer status at Committee Meetings. A sub-committee was struck to consider the matter. At the December 4 meeting, the sub-committee's recommendation was discussed and approved. The Committee decided that a group or a representative of a group could apply to the Chair if they wished to attend a particular meeting.

The September 11 meeting included a discussion of police policy regarding escorting victims from Anderson House to their homes to get personal possessions if no emergency protection order was in place. Police representatives present indicated that this assistance is generally provided, but there is no written policy to this effect. It was agreed that it would be helpful to include a policy on this matter in the woman abuse protocol currently being discussed by the Premier's Action Committee on Family Violence Prevention.

The Report of the Parliamentary Standing Committee on Justice and Human Rights "Victims Rights - A Voice Not a Veto" was discussed at the December 4 Committee meeting. It was noted that the Parliamentary Committee Report included three recommendations for amendments to the *Criminal Code* which had been put forward by

the Victim Services Advisory Committee and the Minister of Community Services and Attorney General, i.e., the recommendation noted above regarding extending the ban on publication of identity; clarification of the timing of distribution of victim impact statements; and improvements to the victim surcharge provisions.

At the December 4 meeting, the Victim Services Advisory Committee also discussed organized crime and criminal groups. The Joint Statement of the Federal/Provincial/Territorial Ministers Responsible for Justice was distributed.

The police response to victims of sexual assault was discussed at the March 12 meeting. The committee discussed the importance of assigning specific officers with sensitivity and specialized training to handle sexual assault cases. The Committee was informed about the LINKS project sponsored by the PEI Rape and Sexual Assault Crisis Centre to review the justice system response to victims of sexual assault.

Guest speaker for the April 3 meeting of the Victim Services Advisory Committee was Alan Buchanan, Commissioner, Law Commission of Canada. Mr. Buchanan discussed the mandate, approach, principles and research focus of the Law Commission of Canada. At its June 19 meeting, the Victim Services Advisory Committee viewed a video of a panel of three people on the impact of impaired driving offences. Jill Lightwood made a presentation on the National Strategy on Community Safety and Crime Prevention at the December 4 Committee meeting. On March 12, Wilfred MacDonald, Highway Safety Division, made a presentation on the *Highway Traffic Act*, including experience to date with recent amendments.

Many information items were brought to the attention of the Victim Services Advisory Committee throughout the year. These included: information about and brief reports on

various workshops and conferences; a change in the national RCMP policy regarding referrals to Victim Services; the development of policies and practices for managing high risk offenders; a research initiative on family violence and the girl child; the Circle of Health Family Violence Prevention project; the introduction of the Youth Justice Act in Parliament; and Seniors Frauds and Scams Workshops.

Sgt. K. MacQuarrie
Sgt. Keir MacQuarrie, Co-chair

Rona Brown
Rona Brown, Co-chair

PART III REPORT OF THE VICTIM SERVICES PROGRAM

Victim Services has provided a criminal justice system based service to victims of crime province-wide since April, 1989. Offices are located at 3 Queen St. in Charlottetown and 263 Harbour Dr. in Summerside.

Victim Services' mission is to provide a client-centred service to victims of crime, ensuring respect for their dignity and privacy. Victim Services assists clients throughout their involvement in the criminal justice process.

Most referrals to Victim Services come from municipal police and RCMP across the province and Victim Services staff follow up from the initial police response to victims of crime. In some cases, victims contact Victim Services prior to reporting to the police.

Victim Services cases are categorized in the following classifications: general, sexual abuse, wife abuse, other family abuse, and commercial/institutional. The following table illustrates the total and percentage of each type of case opened in 1998/99. The table also indicates the police agency involved with each case. In 1998/99, 42 percent of Victim Services new cases involved general victims; 37 percent wife abuse victims; 14 percent sexual abuse victims; 6 percent other family abuse victims; and 1 percent commercial/institutional victims.

TABLE I
VICTIM CASE CLASSIFICATION: NEW CASES
1998/99

Police Jurisdiction	General	Sexual Abuse	Wife Abuse	Other Family Abuse	Commercial / Institutional	TOTAL
Alberton						
RCMP	15	12	22	2	1	52
Borden PD	3	0	1	0	0	4
Ch'town PD	151	22	91	17	0	281
Ch'town						
RCMP	12	9	43	7	1	72
Kensington						
PD	5	2	1	0	0	8
Montague						
RCMP	20	14	20	0	0	54
S'side						
RCMP	16	8	24	4	0	52
S'side PD	49	16	26	3	5	99
Souris						
RCMP	9	7	20	7	0	43
Out of Province						
2	5	1	0	0	0	8
No Police Involvement						
0	1	1	0	0	0	2
GRAND						
TOTALS	282	96	250	40	7	675
PERCENTILE						
	42	14	37	6	1	100

The total of 675 new cases represents a decrease of 42 when compared with the 1997/98 fiscal year. In addition to the 675 new cases, 489 cases from previous years continued to be active.

Assaults, including all levels of assault from common assault to aggravated assault, are by far the most frequent type of crime in Victim Services cases, representing 41 percent of the new cases in 1998/99. The next most frequent types of crime for Victim Services cases were sexual assault (14%) and harassment (12%). In 1998/99, threats (7%) and break and enter (7%) were also frequent crimes in Victim Services new cases.

The victim and suspect or offender were known to each other in 495 of the 675 new cases. There was a family-type relationship in 321 of these cases. In family-type cases, the suspect or offender was most frequently a husband (69 cases) or common-law husband (62 cases). The most frequent non-familial relationship was general acquaintance (113 cases).

The proportion of Victim Services clients victimized by adult offenders compared with young offenders has been quite consistent over the years. In 1998/99, in 91 percent of Victim Services cases, the offenders were adults.

Age ranges of Victim Services' new clients were as follows: under 12 years (3%); 12 - 20 years (18%); 21 - 40 years (37%); 41 - 60 (12%); 61 and over (4%); unknown/not applicable (26%). Seventy-two percent of Victim Services' new clients were females.

Assistance provided to victims of crime included: information about case status, the criminal justice system, and court procedures; investigation of applications for criminal injuries compensation; emotional support and short-term counselling; referrals for legal, financial, and long-term counselling services; assistance through the court process and with the preparation of victim impact statements; assistance under the *Victims of Family Violence Act*; and liaison with other criminal justice officials, particularly police, Crown attorneys and corrections.

The level of service provided by Victim Services varies depending on the needs of the client. In 1998/99, 20 percent of clients required a high level of assistance involving many hours of staff time, 39 percent a medium level of assistance and 34 percent a low level of assistance. In 7 percent of the cases, the victims did not respond to the letter sent by Victim Services informing them of the available services. Compared to the previous fiscal year, a higher percentage of clients required a high or medium level of assistance in 1998/99.

Since September, 1989, Victim Services has been designated by Lieutenant Governor in Council as the program responsible for the preparation and filing of victim impact statements. Victim impact statements outline the physical, emotional, and financial effects of the crime on the victim. After determination of guilt, the judge takes victim impact statements into consideration when deciding on sentence. In 1998/99, 157 victim impact statements were prepared and filed with the court.

Under the *Victims of Crime Act*, Victim Services is responsible for investigating claims for criminal injuries compensation. Victim Services staff also assist victims with preparing their applications and gathering information to support their claims. A lawyer within the Legal Services Division adjudicates claims. Statistics regarding criminal injuries compensation are included in Part IV of this Annual Report.

Victim Services staff participate on the training teams and the Working Group for the *Victims of Family Violence Act* and assist with the ongoing monitoring of the use of the Act. In 1998/99, 25 emergency protection orders were granted under the *Victims of Family Violence Act*. This represents a decrease from 34 emergency protection orders granted in 1997/98. In 1998/99, Victim Services staff made six presentations on the *Victims of Family Violence Act* to police officers, Child and Family Services staff, and lawyers.

In 1998/99, Victim Services staff participated on interagency committees on family violence and child sexual abuse in Southern Kings, Queens and East Prince regions and on the following provincial committees: the Premier's Action Committee on Family Violence

Prevention, the Provincial Advisory Committee on Child Sexual Abuse, the Provincial Crime Prevention Conference Planning Committee, the Circle of Health Family Violence Prevention Project Team, the Woman Abuse and the PEI Legal System Research Team, the Coalition for Woman Abuse Policy and Protocol, and the Board of Directors of the Transition House Association.

The Provincial Manager participated on the Federal/Provincial/Territorial Working Group on Victims of Crime and hosted a national meeting of that group in June, 1998. The Provincial Manager also participated on the Federal/Provincial/Territorial Child Victimization Strategy Project Team and attended a Regional consultation on the *Corrections and Conditional Release Act* in Halifax.

The Provincial Manager and Secretary provided executive and administrative assistance to the Victim Services Advisory Committee and sub-committees.

Victim Services staff made seventeen presentations on Victim Services and other topics (e.g. child sexual abuse, family violence, etc.) to students, criminal justice officials, community groups, and medical personnel during the year. Victim Services also responded to numerous requests from other provinces regarding our program and legislation.

Victim Services Personnel:

Ellie Reddin, Provincial Manager

Jean Profit, Victim Services Worker, Western Region

Melody Lane Gay, Victim Services Worker, Eastern Region

Evelyn Marshall, Assistant Victim Services Worker, Charlottetown Area

Beryl Burke, Secretary, Charlottetown Office (retired April/99)

Carol Gallant, Secretary (part-time), Summerside Office

PART IV CRIMINAL INJURIES COMPENSATION PROGRAM

INTRODUCTION

Prince Edward Island's Program for criminal injuries compensation is contained in Part IV of the *Victims of Crime Act*, which was proclaimed in force September 30, 1989.

The *Victims of Crime Act* is not retroactive; criminal injuries compensation can only be awarded in respect of an injury or death resulting from an act that occurred after September 30, 1989.

"TRIGGER" FOR AWARD

In general, a claim for criminal injuries compensation may arise in the event of injury or death by an act that occurred in Prince Edward Island, and that injury or death must have directly resulted from the commission of a criminal offence prescribed in the Regulations under the *Victims of Crime Act*. The applicant need not be a resident of Prince Edward Island.

The term "injury" is specifically defined in the *Victims of Crime Act* to mean actual bodily harm, including pregnancy, emotional trauma resulting from sexual assault, and mental or nervous shock. If a person suffers only property damage as a result of a prescribed crime, he or she is not eligible for criminal injuries compensation. It is not necessary that anyone be prosecuted or convicted for the crime, but an award may be delayed pending the outcome of the criminal process.

The *Victims of Crime Act* also contains a "good Samaritan" clause which provides that criminal injuries compensation may be awarded if the victim was assisting a police officer, or trying to stop or lawfully arrest someone committing or about to commit a crime. In the case of a Good Samaritan, the offence need not be included in the list prescribed by the Regulations of the *Victims of Crime Act*.

ELIGIBLE APPLICANTS

The Minister may order criminal injuries compensation

1. To or for the benefit of the victim;
2. To any person in respect of expenses which they may have incurred as a result of the victim's death;
3. To any person who suffers monetary loss as a result of the victim's injury, as long as the maintenance of the victim is the responsibility of that person (for example, a parent or guardian of the victim); or
4. To any one or more of the dependents of a victim.

If the victim is culpable in relation to the offence or at the time of the offence was engaged in unlawful activity, criminal injuries compensation may be reduced or denied. Any behaviour on the part of the victim that contributed to the injury or death must also be considered when the claim is being assessed.

COMPENSABLE LOSSES

Compensable losses include the following:

1. Pain and suffering from personal injuries;
2. Reasonable funeral expenses;
3. The victim's loss of income resulting from his or her injury;
4. Financial loss suffered by dependents as a result of a victim's death;
5. Costs of maintaining a child born as a result of sexual assault;
6. Cost of treatment of mental and nervous shock;
7. Financial loss arising from grief or sorrow as a result of a victim's death;
8. Other financial loss resulting from the victim's injury, and any other expense that, in the opinion of the Minister of Community Services and Attorney General, it was reasonable to incur.

CALCULATION OF THE AWARD

The *Victims of Crime Act* directs that the amount of compensation be calculated in the same way as an assessment of damages in a private civil action. However, deductions must be made for any amounts recovered from the person who caused the injury, and any benefits received as a result of the incident under any federal or provincial statute other

than benefits under a pension plan (e.g. unemployment insurance, workers' compensation, accident and disability insurance will be deducted, but Canada Pension Plan disability benefits will not be deducted).

MAXIMUM AWARDS

The maximum amount payable to ALL APPLICANTS in respect of the injury or death of one victim is \$15,000. The maximum amount payable to ALL APPLICANTS in respect of one occurrence (that is, one incident resulting in injury or death to more than one victim) is \$30,000. The award cannot exceed these limits.

TIME LIMIT

An application for criminal injuries compensation must be made within one year of the date of the injury or death, but the Minister of Community Services and Attorney General may extend the time in special circumstances.

RIGHT OF APPEAL

The decision of the Minister of Community Services and Attorney General on a criminal injuries compensation claim may be appealed to a judge of the Supreme Court, Trial Division, on any question of law. An appeal must be filed within thirty days of the Minister's decision.

VARIATION OF AN AWARD

An award may be varied at any time upon the filing of an application for a variation by any interested person, or upon the Minister's own initiative.

SUBROGATION RIGHTS

An applicant is required to notify the Minister of Community Services and Attorney General of any civil action he or she initiates against the person who caused the injury or death.

PROCEDURE

An applicant need not retain the services of a lawyer to make a criminal injuries compensation claim.

Victim Services staff are available to assist with completion of the application form. Once the application form is completed, Victim Services staff conduct an investigation and the result of that investigation is forwarded to the adjudicator in the Department of Community Services and Attorney General. The adjudicator reviews the application and all supporting documentation and makes a recommendation in writing to the Minister with respect to eligibility for compensation and the amount of compensation. The Minister of Community Services and Attorney General then makes his decision on the claim.

An exception to this procedure is when the claim is for less than \$250. For small claims, the Provincial Manager of Victim Services determines the eligibility of the applicant, fixes the amount of the claim, and makes an order for compensation.

Interim compensation may be paid to an applicant in respect of maintenance and medical expenses if

1. the applicant is in actual financial need, and
2. it appears to the Minister or an officer designated to act on behalf of the Minister that a criminal injuries compensation award will probably be granted.

VOLUME OF APPLICATIONS

During the fiscal year 1998/99, thirty-five new applications for criminal injuries compensation were filed. Fifty-one applications were carried over from the previous year.

Twenty-one final decisions were made in 1998/99. One claim was denied, two were reduced and eighteen full awards were granted.

The following statistical tables summarize the criminal injuries compensation program during 1998/99:

TABLE II
Applications - Statistical Summary
April 1, 1998 - March 31, 1999

New applications filed	35
Applications carried over from last year	51
Variation applications	0
Appeals	0
TOTAL	86
Decisions made:	21
award denied	1
full award granted	18
reduced award	2
Withdrawn applications	0
Files carried forward to 1999/2000	67

TABLE III
Categories of Victims
(Based on compensation Awarded)
April 1, 1998 - March 31, 1999

TYPES OF VICTIMS	NUMBER
General	11
Other family abuse	1
Sexual abuse	5
Wife abuse	3
TOTAL	20

TABLE IV
Crimes Involved in Final Awards Granted from
April 1, 1998 - March 31, 1999

CRIMINAL CODE SECTION	NUMBER OF AWARDS
151 (sexual interference)	1
152 (invitation to sexual touching)	1
173 (indecent act)	1
236 (manslaughter)	1
266 (assault)	4
267 (assault with weapon/causing bodily harm)	9
271 (sexual assault)	2
343 (robbery)	1
TOTAL	20

TABLE V
Reasons for Reduced and/or Denied Awards
April 1, 1998 - March 31, 1999

REASON	REDUCED	DENIED
Victim culpability/ contributory behaviour	2	1

TABLE VI
Location of Offences
(New Applications and Variation Applications)
April 1, 1998 - March 31, 1999

POLICE JURISDICTION	# OF OFFENCES
Alberton R.C.M.P.	2
Charlottetown City Police	21
Charlottetown R.C.M.P.	4
Montague RCMP	5
Summerside RCMP	1
Summerside City Police	2
 TOTAL	 35

TABLE VII
Age and Gender of Victims
(Based on Compensation Awarded)
April 1, 1998 - March 31, 1999

AGE	# OF VICTIMS
1-10	2
11-20	6
21-30	2
31-40	4
41-50	2
51-60	1
61-70	0
71 +	3
TOTAL	20

GENDER	
Female	9
Male	11
TOTAL	20

PART V VICTIM ASSISTANCE FUND

Victim Services Program

Summary of Revenue and Expenditures

ACTUAL year ended March 31, 1999

Revenue

Victim Surcharge	
~ federal offenses	35,368
~ provincial offenses	136,043
Donations	0
Community Service Work option	0
Restitution/civil suit reimbursement	796
TOTAL REVENUE	172,207

Expenditures

Administration	8,390
Equipment	5,234
Materials/supplies	3,683
Salaries/benefits	195,004
Travel	12,066
Criminal injuries compensation	111,293
TOTAL EXPENDITURES	335,670

Excess (deficiency) of revenue over expenditures for the year	(163,463)
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ACCOUNTING PROCEDURES

All revenues and expenditures related to the Victim Services Program are recorded in the accounts of the Province and included in the Public Accounts.